

The Objection To The Claims Under § 102

The claim was rejected under 35 U.S.C. 102(b) as being anticipated by Bankert et. al. (5,258,209) and Thomas Jr. (2,949,882).

Applicants request reconsideration and withdrawal of this objection for the following:

The results achieved by the invention are new, unexpected, and surprising.

Up to now, those skilled in the art never appreciated the advantage of the invention, although it is inherent.

The invention solves a different problem than the reference, and such different problem is recited in the claim.

Bankert references a container with a plurality of particles 20; Thomas Jr. references a flexible bag housing a live fish 14. For the invention to function, it must be free of all material, i.e. the container may only house the liquid.

Bankert and Thomas Jr. do not specify the liquid capacity of the containers. For the invention to function, it must not be completely full.

Conclusion

For the above reasons, applicants submit that the claim is in proper form, and that the claim defines patentably over the prior art. Therefore they submit the application is now in condition for allowance, which action they respectfully solicit.

Conditional Request for Constructive Assistance

Applicants have amended the claims of this application so that they are proper, definite, and define novel art that, while inherent, was unknown, unexpected, or unappreciated.

Very respectfully,

Jack Mathews

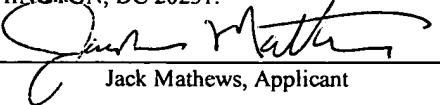
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Certificate of Mailing: I hereby certify that on the date below this document and referenced attachments, if any, will be deposited with the U.S. Postal Service as first class mail in an envelope addressed to: "ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231."

2003 Oct 21


Jack Mathews, Applicant

Attachment: Appendix to Amendment A With Replacement Paragraph Marked-Up to Indicate Changes

**Appendix to Amendment Under Rule 116
With Replacement Paragraph Marked-Up to Indicate Changes**

Commissioner for Patents
Washington, DC 20231

Sir:

Pursuant to Rule 121, the following is a copy of all the paragraphs amended by the attached Amendment A, with all changes indicated by bracketing deletions and underlining additions:

Page 7, first paragraph, replace with the following new paragraph:

A method of repelling the common house fly and members of the house fly family [comprising refracting light through a clear liquid encapsulated in a sealed, clear plastic container] by refraction of light, comprising:

- (a) a sealed, firm, clear plastic container enclosing a clear liquid, that occupies 90 percent of the container's available volume.
- (b) a sealed, flexible, clear plastic container enclosing a clear liquid, that occupies 90 percent of the container's available volume,